

Doc Code: AP.PRE.REQ

PTO/SB/33 (07-05)

Approved for use through xx/xx/200x. OMB 0651-00xx

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

723-845

Application Number

09/643,981

Filed

August 23, 2000

First Named Inventor

CHENG

Art Unit

2644

Examiner

L. Lao

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐ Applicant/Inventor

☐ Assignee of record of the entire interest. See 37 C.F.R. § 3.71. Statement under 37 C.F.R. § 3.73(b) is enclosed. (Form PTO/SB/96)

☒ Attorney or agent of record 34,725
(Reg. No.)

☐ Attorney or agent acting under 37CFR 1.34.
Registration number if acting under 37 C.F.R. § 1.34 _____


Signature

Michael J. Shea

Typed or printed name

703-816-4029
Requester's telephone number

December 29, 2005
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.*

☒ *Total of 1 form/s are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and selection option 2.



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

CHENG

Atty. Ref.: 723-845; Confirmation No. 9922

Appl. No. 09/643,981

TC/A.U. 2644

Filed: August 23, 2000

Examiner: L. Lao

For: METHOD AND APPARATUS FOR MIXING SOUND SIGNALS

* * * * *

December 29, 2005

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Pursuant to the OG Notice of July 12, 2005, applicant hereby requests a pre-appeal brief review of this case for at least the following reasons. This Request accompanies a Notice of Appeal.

Remarks begin on page 2.

REMARKS

Claims 1-29 are pending in this application.

Claims 1, 2, 4-6, 8-13, 23, 24 and 26-29 were rejected under 35 U.S.C. Section 102(b) as allegedly being "anticipated" by Williams (U.S. Patent No. 5,896,459). For the reasons set forth below, Applicant traverses this rejection.

Independent claim 1 is directed to a mixer that includes a mixer buffer for storing sample values for three or more sound channels, each sound channel including a main sound component and one or more auxiliary sound components. Send paths send the auxiliary sound components for each sound channel to a sound effects processor, and return paths from the sound effects processor respectively add the effects-processed auxiliary sound components for each channel to the corresponding main sound component. Independent system claim 5 and independent method claim 23 each contains similar recitations.

By way of example without limitation, Figure 9B of the instant patent application shows three channels (left, right and surround), each of which includes a main sound component (Main) and two auxiliary sound components (AuxA, AuxB). The AuxA and AuxB components of the left channel; the AuxA and AuxB components of the right channel; and the AuxA and AuxB components of the surround channel are passed for sound processing over send paths 914a, 914b and 914c, respectively. The effects-processed AuxA and AuxB components of the left channel are added to the main component of the left channel via return path 916a. Similarly, the effects-processed AuxA and AuxB components of the right channel are added to the main component of the right channel via return path 916b and the effects-processed AuxA and AuxB components of the surround channel are added to the main component of the surround channel via return path 916c.

Applicant respectfully submits that Williams does not "anticipate" claims 1, 5 and 23 or any claim that depends therefrom.

Williams discloses an audio mixer 100 that provides a "dry" mix output 104, an effects return mix output 106, and a main mix output 108. The dry mix output 104 represents the sum or mix of individual input audio signals. The effects returns output 106 provides select or various combinations of select audio signals that have been processed by a special effects

processor. The main mix output 108 provides a main audio mix representing the mix of the dry audio mix and the effects returns audio mix.

Williams fails to disclose, among other things, sound channels each of which includes a main sound component and one or more auxiliary sound components. Williams generally discloses input channels (*e.g.*, channels 12 in Figure 1 and channels 102 in Figure 3), but Applicant finds no disclosure in Williams that these channels have a main sound component and one or more auxiliary sound components as claimed. For this reason alone, Williams cannot anticipate the subject matter of the rejected claims. *See, e.g., Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987) ("A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.")

The final office action alleges with reference to Figure 3 of Williams that the output from each of the channels CH 1, CH 2, ... CH N to dry mix 110 constitutes a "main" sound component and the output from each of these channels to effects sends 116 constitutes "auxiliary" sound components. However, as is clear from the description accompanying Figure 3 and from the more detailed view of Figure 4, the two outputs from each channel shown in Figure 3 are actually for the same audio signal. *See, e.g., Williams*, col. 5, lines 4-5 ("The audio signals appearing at the input channels 102 are also routed to one or more effects sends (or outputs) 116.") (emphasis added). There is simply no disclosure in Williams of a channel having a main component and one or more auxiliary components that are processed as claimed.

Applicants note the discussion in Williams relating to right and left channels (*see, e.g., Williams*, col. 5, lines 46-54) and the statement at col. 6, line 33 *et seq.* that "the effects mix output 106 provides a left channel output, a right channel output and a mono output derived by bridging the left and right channels with bridging circuitry 190." However, there is no disclosure whatsoever in Williams of these respective right and left channels including a main sound component and one or more auxiliary sound components that are processed in the manner set forth in claims 1, 5 and 23.

Williams further fails to disclose sending the auxiliary sound components of each of a plurality of sound channels to a sound effects processor and then adding these effects-processed auxiliary sound components to corresponding main sound components. Williams discloses sends

buses for sending signals for effects processing and an effects return for the effects-processed signals. However, as is clear from Figure 4 of Williams, each of the respective sends buses 154-160 is a mix of the audio signals of all the input channels 102 and the effects return bus has one portion onto which the left channels of all the return signals are mixed and another portion onto which the right channels of all the return signals are mixed. There is simply no provision in Williams for adding effects-processed auxiliary sound components for each of a plurality of sound channels to main sound components for these respective channels. For this additional and independent reason, Williams does not anticipate the subject matter of the rejected claims.

Applicants note that even under the erroneous interpretation of main and auxiliary sound components set forth in the office action, Williams does not disclose sending the auxiliary sound components of each of a plurality of sound channels to a sound effects processor and then adding these effects-processed auxiliary sound components to corresponding main sound components. In other words, there is no disclosure or suggestion in Williams of adding the effects processed output of CH 1, for example, to the output of CH 1 supplied to dry mix 110; of adding the effects processed output of CH 2 to the output of CH 2 supplied to dry mix 110; etc.

In connection with the claimed auxiliary sound components, page 3 of the office action references auxiliary inputs 208 and 210 shown in Figure 4 of Williams. However, these signals are “[a]dditional signals from external equipment, such as another mixing console” that may be mixed with the level adjusted main audio mix. *See Williams*, col. 6, lines 57 *et seq.* Among other things, there is no disclosure in Williams of these additional signals having any effects processing, much less of these signals being added to the main sound component of a channel of which they are auxiliary sounds components. As such, these additional signals cannot possibly constitute the claimed auxiliary sound components.

For at least these reasons, Applicant respectfully submits that Williams does not anticipate claims 1, 2, 4-6, 8-13, 23, 24 and 26-29.

Claims 3, 7 and 25 were rejected under 35 U.S.C. Section 103(a) as allegedly being “obvious” over Williams in view the admitted prior art of Figure 11b. While not acquiescing in this rejection, Applicant notes that Figure 11b does not remedy the above-noted deficiencies of claims 1, 5 and 23, from which claims 3, 7 and 25 respectively depend. As such, even if

sufficient motivation could be identified for the modification to Williams proposed in the office action, the subject matter of claims 3,7 and 25 would not result.

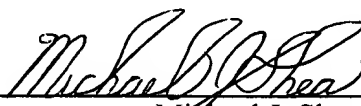
Claims 14, 15 and 17-22 were rejected under 35 U.S.C. Section 103(a) as allegedly being "obvious" over Kaneoka (U.S. Patent No. 4,783,812) in view of Williams. Kaneoka is applied for its disclosure of a gaming system, but is admitted to lack a sound effects processor and a mixer as specified in claim 14. See 6/29/2005 Office Action, page 6. Williams is alleged to remedy this deficiency. However, as explained above, Williams does not disclose a mixer having the features of claim 14. As such, even assuming for the sake of argument that sufficient motivation could be demonstrated to modify Kaneoka as proposed, the result would not be the subject matter of claims 14, 15 and 17-22.

Claim 16 was rejected under 35 U.S.C. Section 103(a) as allegedly being "obvious" over the proposed Kaneoka-Williams combination, in further view of the admitted prior art of Figure 11b. Here again, while not acquiescing in this rejection, Applicant notes that Figure 11b does not remedy the above-noted deficiencies of claim 14, from which claim 16 depends. As such, even if sufficient motivation could be identified for the modification to the proposed Kaneoka-Williams combination, the subject matter of claim 16 would not result.

For the reasons set forth above, withdrawal of the rejections of claims 1-29 is respectfully requested.

Respectfully submitted,

NIXON & VANDERHYE P.C.

By: 
Michael J. Shea
Reg. No. 34,725

MJS:mjs
901 North Glebe Road, 11th Floor
Arlington, VA 22203-1808
Telephone: (703) 816-4000
Facsimile: (703) 816-4100